

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

CONDRA SMITH,

Plaintiff,

-v-

**UNITED STATES DEPARTMENT OF
EDUCATION, *et al.*,**

Defendants.

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) **Case No.: 1:20-CV-474-WCL-SLC**
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DEFENDANTS' JOINT MOTION FOR INITIAL PRETRIAL CONFERENCE

Defendants United States Department of Education (the "Department"), Pioneer Credit Recovery, Inc. ("PCR"), and General Revenue Corporation ("GRC") hereby jointly move for the scheduling of an initial pretrial conference at the Court's earliest convenience, and state:

1. On November 12, 2020, Plaintiff filed her Complaint and Demand for Jury Trial in the Allen Superior Court against the Department, PCR, GRC, and "USA Funds C/O Navient also d.b.a Great Lakes, d.b.a. Ascendium Education Solutions, Inc." ("USA Funds").¹

2. Plaintiff's Complaint alleges claims for fraud and conversion related to the garnishment of Plaintiff's wages following Plaintiff's default on her student loans. [Dkt. #3] Among other things, Plaintiff alleges that the underlying loan was obtained fraudulently and is not her loan obligation.

3. Plaintiff's Complaint asserts substantially-identical allegations to those raised in a previous lawsuit brought by Plaintiff in the Northern District of Indiana, *Smith v. United States Department of Education, et al*, Cause No. 1:18-CV-348-HAB-SLC (the "Prior Lawsuit").

¹ USA Funds, which has not been served with the Complaint and summons as of the time of this filing, was not correctly named in Plaintiff's Complaint.

4. The Prior Lawsuit was fully litigated before the Hon. Judge Holly A. Brady, with final judgment entered against Plaintiff and in favor of the Department, PCR, GRC, and USA Funds. Plaintiff appealed the judgment in the Prior Lawsuit to the Seventh Circuit Court of Appeals, which dismissed the appeal. [*See Smith v. United States Department of Education, et al.*, No. 20-1069 (7th Cir. 2020).] Plaintiff then petitioned for review to the Supreme Court of the United States, which was denied.

5. On December 17, 2020, the Department filed its Notice of Removal, pursuant to 28 U.S.C. § 1442(a)(1), to remove Plaintiff's most recent Complaint from the Allen Superior Court to the Northern District of Indiana. [Dkt. #1]

6. On December 29, 2020, Plaintiff filed her Motion for Remand and Memorandum in Support of Motion to Remand. [Dkt. #7]

7. The Department, PCR, and GRC oppose Plaintiff's Motion for Remand and intend to file a response in opposition to her request for remand.

8. The Department, PCR, and GRC also intend to move for dismissal of Plaintiff's Complaint, which fails because Plaintiff's claims were fully litigated on the merits in the Prior Lawsuit, among other reasons.

9. The Department, PCR, and GRC now respectfully request an initial pretrial conference with the Hon. Magistrate Judge Susan L. Collins, at the Court's earliest convenience (in advance of the Rule 16 Conference), to discuss the progression of this litigation and a potential joint briefing schedule to govern forthcoming filings in this matter. The Department, PCR, and GRC believe that an early initial conference to discuss these issues would benefit the Court and the parties and help streamline this case moving forward.

WHEREFORE, the Department, PCR, and GRC respectfully request the Court schedule an initial pretrial conference with the Hon. Magistrate Judge Susan L. Collins, at the Court's earliest convenience, and for all other relief the Court deems appropriate.

Respectfully submitted,

/s/ Justin A. Allen

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CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2021, a copy of the foregoing was filed with the Court using the Clerk of Court's CM/ECF system, which by its operation will send notice of this filing to all counsel of record. A copy of the foregoing was also served by United States Mail, postage prepaid to the following:

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Pro-Se Plaintiff

/s/ Justin A. Allen